

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT**

**UNITED STATES OF AMERICA,
Respondent,**

v.

**MALIK CRAWFORD-BEY,
Petitioner.**

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File No. 1:08-cr-29-jgm-1

ORDER

The Magistrate Judge's Report and Recommendation was filed March 27, 2013. (Doc. 136.) After de novo review and absent objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1).

Malik Crawford-Bey's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 (Doc. 123) and his motion for appointment of counsel (Doc. 124) are DENIED. To the extent his reply could be construed as a motion to expand the record to permit an additional response to Elizabeth Mann's affidavit (Doc. 134-1 at 1), the motion is DENIED.

Pursuant to Fed. R. App. P. 22(b), the Court DENIES Petitioner a certificate of appealability ("COA") because the Petitioner failed to make a substantial showing of a denial of a constitutional right. See 28 U.S.C. § 2253(c)(2). The Court rejects the petition on its merits because Crawford-Bey has failed to demonstrate that reasonable jurists would find the Court's "assessment of the constitutional claims debatable or wrong." See Slack v. McDaniel, 529 U.S. 473, 484 (2000).

It is further certified that any appeal taken in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(a).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 15th day of May, 2013.

/s/ J. Garvan Murtha

Honorable J. Garvan Murtha
United States District Judge